

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

MARIA CHAVEZ, *et al.*, on behalf
of themselves and all others
similarly situated,

Plaintiffs,

v.

IBP, Inc., LASSO ACQUISITION
CORPORATION, and TYSON
FOODS, INC., all Delaware
corporations,

Defendants.

NO. CV-01-5093-RHW

**ORDER GRANTING
PLAINTIFFS' MOTION FOR
APPROVAL OF DISTRIBUTION
OF REMAINING SETTLEMENT
FUNDS**

Before the Court are Plaintiffs' Motion for Approval of Distribution of Remaining Settlement Funds (Ct. Rec. 942) and Motion to Shorten Time (Ct. Rec. 940). The motions were heard without oral argument.

Plaintiffs ask the Court to approve the distribution of approximately \$203,000 remaining settlement funds in this case and the companion case of *Nunez v. Tyson Fresh Meats, Inc.*, CV-06-5041-RHW. Defendants do not oppose the motion.

The Court finds that the proposed distribution plan is reasonable and fair to the absent class members and is consistent with the provisions of the MANUAL FOR COMPLEX LITIGATION § 21.662 (2004), which addresses undistributed class action settlement funds. It is fair and reasonable to give first priority to class members who have not yet received money either because their settlement checks were not cashed or their contact with class counsel was untimely. *See id.* It is also

1 fair and reasonable to hold money for class members whose Tyson-issued
2 settlement checks were not cashed until such time as the funds are claimed by these
3 class members or are turned over to the State of Washington pursuant to RCW
4 chapter 63.29; Tyson has already appropriately reported to the IRS that these funds
5 are income to the particular class member.

6 Incentive payments of \$2000 to each of the five *Chavez* class representatives
7 is reasonable in light of their representation of class interests since 2001, which
8 included, *inter alia*, their efforts in responding to interrogatories and requests for
9 production, being deposed, and on-going participation in a 2 day mediation and
10 other settlement negotiations during the course of the *Chavez* litigation. *See Staton*
11 *v. Boeing Co.*, 327 F.3d 938, 976-77 (9th Cir. 2003)(discussing *In re Mego Fin.*
12 *Corp. Sec. Litig.* 213 F.3d 454 (9th Cir. 2000)).

13 The proposal to distribute remaining funds pro rata to the approximately
14 1200 *Chavez* and/or *Nunez* class members with over \$2000 in damages is fair and
15 reasonable. This will result in individual payments ranging between \$20 and
16 \$200 depending on the amount of the class member's settlement award. There are
17 over 2000 class members with settlement awards of less than \$2000. Distributions
18 to them would be too small (\$0.01 to \$20) to warrant the time and expenses
19 involved.

20 Finally, it is fair and reasonable to distribute funds remaining after the
21 efforts outlined above to the Legal Foundation of Washington. The Court observes
22 that Washington's CR 23(f), although not applicable in this action, gives the Legal
23 Foundation of Washington a mandatory share of undistributed settlement proceeds.
24 The Legal Foundation of Washington funds organizations that provide
25 representation to individuals such as these class members and their families.

26 ///

27 ///

1 Accordingly, **IT IS HEREBY ORDERED:**

2 1. Plaintiffs' Motion for Approval of Distribution of Remaining Settlement
3 Funds (Ct. Rec. 942) is **GRANTED**.

4 2. Plaintiffs' Motion to Shorten Time (Ct. Rec. 940) is **GRANTED**.

5 3. An order approving Plaintiffs' distribution plan is being entered
6 simultaneously in *Nunez v. Tyson Fresh Meats, Inc., supra*.

7 **IT IS SO ORDERED.** The District Court Executive is directed to enter
8 this Order, forward copies to counsel, and close the file.

9 **DATED** this 30th day of July, 2007.

10 *S/ Robert H. Whaley*

11 ROBERT H. WHALEY
12 Chief United States District Judge

13
14
15
16 Q:\CIVIL\2001\Chavez v. IBP\finaldist.wpd
17
18
19
20
21
22
23
24
25
26
27
28